

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

CARL E. WHITACRE,	:	
Petitioner,	:	Case No. 2:22-cv-1871
- vs -	:	District Judge James L. Graham
WARDEN, Noble Correctional Institution,	:	Magistrate Judge Stephanie K. Bowman
Respondent.	:	

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman (Doc. 11), to whom this case was referred pursuant to 28 U.S.C. § 636(b).

Petitioner moved for an extension of time to object to the Report and Recommendation. The Court hereby GRANTS the motion for extension of time (Doc. 13).

Petitioner then filed objections to the Report and Recommendation (Doc. 14).

Upon *de novo* review, the Court finds that the objections fail to raise a meritorious argument. The Report and Recommendation correctly found that petitioner has failed to demonstrate that he exhausted his state court remedies prior to filing this action. *See* 28 U.S.C. § 2254(c). In his objections, petitioner does not address the exhaustion issue.

Accordingly, the Court ADOPTS the Report and Recommendation (Doc. 11), and the Petition is DISMISSED WITHOUT PREJUDICE. Petitioner is DENIED any requested certificate of appealability, and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed in forma pauperis.

Petitioner's pending motions (Docs. 8, 15) shall be terminated.

Pursuant to Fed. R. Civ. P. 58, the Clerk shall enter judgment to this effect.

DATE: January 26, 2023

s/ James L. Graham
James L. Graham
United States District Judge